

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**MEDTECH PRODUCTS INC.,
90 North Broadway
Irvington, New York 10533**

Plaintiff,

v.

**POWER PRODUCTS, INC.
d/b/a SPLINTEK,
3325 Wyoming Street
Kansas City, Missouri 64111**

Defendant.

Civil Action No. 07 CV 3305 (SCR)

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the accompanying proofs and submissions including:

1. The Declaration of Jean Boyko, dated May 23, 2007, including Exhibits 1-5;
2. The Declaration of Charles Schrank, dated May 23, 2007, including Exhibits A-K;
3. The Declaration of Eugene P. Ericksen, dated May 23, 2007, including Exhibit AA;
4. The Declaration of Amy S. Manning, Esq., dated May 23, 2007, including Exhibits 1-8;
5. Plaintiff's Memorandum of Law in Support its Motion for Preliminary Injunction and Appendix and Exhibit 1 thereto;
6. All prior pleadings heretofore had in this action; and
7. Any additional discovery or proof as permitted by the Court.

Plaintiff Medtech Products Inc. ("Medtech") will move this Court at the United States Courthouse, 300 Quarropas Street, White Plains, New York, before the Honorable Stephen C. Robinson, United States District Judge, on a date and time to be set by the Court, pursuant to

Rule 65 of the Federal Rules of Civil Procedure, for an Order preliminarily enjoining Defendant Power Products, Inc. d/b/a Splintek ("Power Products") as follows:

1. Preliminarily enjoining Defendant Power Products from using Medtech's NIGHTGUARD™ mark on any of Power Products' dental protector products or materials;
2. Preliminarily enjoining Defendant Power Products from copying or distributing any of Medtech's copyrighted materials;
3. Preliminarily enjoining Defendant Power Products from selling its dental protector products over-the-counter until such time as those sales are approved by the U.S. Food and Drug Administration; and
4. Preliminarily enjoining Defendant Power Products from selling its dental protector in violation of the New York Deceptive Practices Act, N.Y. Gen. Bus. § 349(a).

Power Products' recent expanded market presence and increased direct competition with Medtech's dental protector sold under the NIGHTGUARD™ mark pose an immediate and urgent threat to Medtech. The damage being caused is inestimable and irreparable in a market where consumer confidence, brand recognition and reputation are critical to success. Accordingly, Medtech respectfully requests immediate injunctive relief to protect Medtech's reputation, goodwill, and business from Power Products' continued infringing and illegal actions.

Dated: May 23, 2007

New York, New York

Respectfully submitted,

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